
TITLE 329 SOLID WASTE MANAGEMENT DIVISION

**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-7](#) AND SECOND NOTICE OF COMMENT PERIOD**
LSA Document #19-424

TRANSFER STATION REPORTING**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to reporting requirements at solid waste transfer stations at [329 IAC 11-13.5-13](#) and [329 IAC 11-13.5-17](#). The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: [329 IAC 11-13.5-1](#); [329 IAC 11-13.5-13](#); [329 IAC 11-13.5-17](#).

AUTHORITY: [IC 13-14-8-7](#); [IC 13-15-2](#); [IC 13-19-3](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-7](#) recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the first notice of public comment period would provide no substantial benefit to the environment or persons to be regulated or otherwise affected by the proposed rule, IDEM may forgo this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by [IC 13-14-9-7](#), the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-7](#).

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [\[IC 13-14-9-3\]](#) . . . would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

Solid waste transfer stations are facilities where solid waste is unloaded from collection vehicles or containers for reloading into larger, long-distance vehicles for transport to landfills or other permitted solid waste facilities for final disposal. These transfer stations provide screening of incoming waste to recover recyclables or materials inappropriate for disposal at a solid waste landfill. Municipal solid waste that decomposes quickly must be removed from a transfer station by the next day while recyclables may be stored in containers for a longer period of time. Transfer station operators prevent contamination from leaving their facility by transferring waste inside of an enclosed building with concrete floors and a waste water collection system. Transfer stations are not able to receive hazardous waste, infectious waste, or other wastes listed at [329 IAC 11-13.5-13\(b\)](#). Modern transfer stations have a minimal impact on the environment with a focus on reducing overall transportation costs, air emissions, energy use, truck traffic, and road wear and tear.

The purpose of this rule is to remove the annual reporting requirement in [329 IAC 11-13.5-17](#) and move the remaining record keeping requirements to [329 IAC 11-13.5-13](#). The transfer station annual report would no longer need to be submitted to IDEM because IDEM staff can view these records during on-site facility visits. Most transfer stations do not submit this specific report and of those that do, no detection of prohibited waste has been reported. Moving the requirements for the record keeping to [329 IAC 11-13.5-13](#) makes [329 IAC 11-13.5-17](#) obsolete, so IDEM is proposing to repeal [329 IAC 11-13.5-17](#). This rulemaking will update the biosolids and septage acceptance requirements at [329 IAC 11-13.5-13\(b\)\(11\)](#) and [329 IAC 11-13.5-13\(b\)\(12\)](#) for clarification. In accordance with a statutory change to [IC 13-18-12](#), the term "wastewater" is being replaced with "septage." The term "MSW" is being changed to "solid waste described in subsection (a)" to clarify this requirement. Transfer stations currently check incoming solid waste including all the items listed in [329 IAC 11-13.5-13\(a\)](#).

IDEM will also review the rule to ensure typographical errors, inconsistencies, and organizational issues are clarified. The rule will also be reviewed to ensure compliance with rule drafting guidelines, and for opportunities to streamline, simplify, and clarify the language. IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 329 that may be affected by this rulemaking, and alternative ways to achieve the purpose of rulemaking.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

Potential Fiscal Impact

There will be a positive fiscal impact from the implementation of this rule because it eliminates extraneous reporting by transfer stations.

Public Participation and Work Group Information

No work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Krystal Hackney, Rules Development Branch, Office of Legal Counsel at (317) 232-3158 or (800) 451-6027 (in Indiana).

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on CTAP and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor

IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison

IGCN 1316

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 233-0572 or (800) 988-7901

ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Katelyn Colclazier

Small Business Ombudsman

Indiana Economic Development Corporation

One North Capitol, Suite 700

Indianapolis, IN 46204

(317) 431-1560

kcolclazier@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Erin Moorhous

IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison

IGCN 1301

100 North Senate Avenue

Indianapolis, IN 46204-2251

(317) 232-8921 or (800) 451-6027

emoorhous@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking to remove the annual report from transfer stations. IDEM has determined that few transfer stations are reporting this to IDEM and those that do have not detected any prohibited waste. IDEM will be able to review this information during on-site facility visits. These findings are prepared under [IC 13-14-9-7](#) and are as follows:

- (1) This rule is a technical amendment with little to no substantive effect on the existing Indiana rule. The proposed amendments eliminate preparation of an unnecessary report for transfer stations and review of the report by IDEM.
- (2) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (3) The draft rule is hereby incorporated into these findings.

Bruno L. Pigott
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #19-424 Transfer Station Reporting
Krystal Hackney
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 232-8922.

- (3) By electronic mail to khackney1@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than October 11, 2019. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Krystal Hackney, Rules Development Branch, Office of Legal Counsel, (317) 232-3158 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. [329 IAC 11-13.5-1](#) IS AMENDED TO READ AS FOLLOWS:

[329 IAC 11-13.5-1](#) Applicability

Authority: [IC 13-14-8-7](#); [IC 13-15-2-1](#); [IC 13-19-3-1](#)

Affected: [IC 13-20-6](#); [IC 36-9-30](#)

Sec. 1. (a) Sections 2 through 9 of this rule apply to all solid waste processing facilities.

(b) In addition to subsection (a), ~~the following sections of this rule apply to all~~ transfer stations located in Indiana or that transfer solid waste from Indiana **must comply with sections 10 through 16 of this rule.**

~~(1) Sections 10 through 13 of this rule.~~

~~(2) Section 14(a) of this rule.~~

~~(3) Sections 15 through 17 of this rule.~~

~~(c) In addition to subsections (a) and (b), transfer stations in Indiana must adhere to section 14(b) of this rule.~~

(Solid Waste Management Division; [329 IAC 11-13.5-1](#); filed Jun 28, 2010, 2:11 p.m.:

[20100728-IR-329060070FRA](#); readopted filed Jun 6, 2016, 11:52 a.m.: [20160706-IR-329160144BFA](#); errata filed Feb 19, 2018, 10:06 a.m.: [20180228-IR-329180109ACA](#))

SECTION 2. [329 IAC 11-13.5-13](#), PROPOSED TO BE AMENDED AT [20190703-IR-329180481PRA](#), SECTION 31, IS AMENDED TO READ AS FOLLOWS:

329 IAC 11-13.5-13 Monitoring and managing incoming waste for transfer stations

Authority: IC 13-14-8-7; IC 13-15-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-20-9; IC 13-20-16; IC 36-9-30

Sec. 13. (a) Except as provided in subsection (b), a transfer station may accept all solid waste regulated by this article including the following:

- (1) MSW.
- (2) Construction/demolition waste.
- (3) Hazardous waste generated in compliance with 329 IAC 3.1-7 by a very small quantity generator.
- (4) Industrial process waste.
- (5) Pollution control waste in nonleaking containers.
- (6) Any solid waste authorized by the facility permit.

(b) A transfer station may not accept any of the following:

- (1) Solid waste that is prohibited by the facility permit.
- (2) Liquid waste, as defined in 329 IAC 10-2-106.
- (3) Hazardous waste, except hazardous waste generated in compliance with 329 IAC 3.1-7 by a very small quantity generator.
- (4) Infectious waste, except as provided in 410 IAC 1-3-26 and section 15 of this rule.
- (5) Whole waste tires, except as provided in section 16 of this rule.
- (6) Lead acid batteries prohibited by IC 13-20-16.
- (7) Vegetative matter prohibited by IC 13-20-9.
- (8) Waste or material containing PCB prohibited by 329 IAC 4.1.
- (9) RACM that is not managed in accordance with 326 IAC 14-10 and 329 IAC 10-8.2-4.
- (10) Any appliance or motor vehicle air conditioner containing a refrigerant or other class I or class II substance that has not been removed as required by 40 CFR 82.156*. ~~revised as of July 1, 2002.~~
- (11) Biosolid, as defined in 327 IAC 6.1-2-7, ~~that is not managed in accordance with 327 IAC 6.1-1-7.~~ **unless the biosolid:**
 - (A) is completely contained;**
 - (B) is in unopened containers; and**
 - (C) is not transferred to other containers or commingled with other wastes.**
- (12) ~~Wastewater, Septage,~~ as defined in 327 IAC 7.1-2-41; IC 13-11-2-199.2, that is not managed in accordance with 327 IAC 7.1-7-1, **unless the septage:**
 - (A) is completely contained;**
 - (B) is in an unopened container; and**
 - (C) is not transferred to other containers or commingled with other wastes.**
- (13) More than two hundred twenty (220) pounds of pollution control waste in a shipment that is not enclosed in nonleaking containers.

(c) Incoming ~~MSW~~ **solid waste described in subsection (a)** must be monitored daily by ~~a transfer station employee.~~ **employee.** The monitoring must be conducted by ~~personnel~~ **an employee** who ~~are~~ **is** able to recognize the visual indications of solid waste as listed in subsection (b) that may be present in the ~~MSW solid waste described in subsection (a) that is~~ **observed.**

(d) The monitoring may be accomplished by either of the following methods:

- (1) Conducting, on a daily basis, a minimum of two (2) random inspections that must consist of a visual observation of all off-loaded ~~MSW solid waste described in subsection (a)~~ prior to processing.
- (2) An overview of the ~~MSW solid waste described in subsection (a)~~ on an ongoing basis by facility ~~personnel.~~ **employees.**

(e) Random inspections conducted under subsection (d)(1) must be recorded in a format established by the department.

(f) A facility conducting overview inspections of the incoming ~~MSW solid waste, described in subsection (a),~~ under subsection (d)(2) must only record events in which solid waste as listed in subsection (b) is found. Records of the events must be in a format established by the department, and the waste must be managed in accordance with the applicable laws.

(g) Inspection records must be maintained on site and available for review by the department for a period of one (1) year from the date of the inspection or event.

(h) The record must include all of the following:

- (1) The name of the facility.**
- (2) The address of the facility.**
- (3) The permit number of the facility.**
- (4) The inspection date.**
- (5) The name of the person conducting the inspection.**
- (6) The type of waste found and how it was handled, including final disposition.**
- (7) The name and address of the generator of waste found during an inspection if known.**

*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.

(Solid Waste Management Division; [329 IAC 11-13.5-13](#); filed Jun 28, 2010, 2:11 p.m.: [20100728-IR-329060070FRA](#); readopted filed Jun 6, 2016, 11:52 a.m.: [20160706-IR-329160144BFA](#))

SECTION 3. [329 IAC 11-13.5-17](#) IS REPEALED.

[Notice of Public Hearing](#)

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